UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,099	04/07/2004	Sean Christopher Endler	86605 7114	8955

37123 7590 02/16/2010

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER	
BETIT, JACOB F	

ART UNIT	PAPER NUMBER
2169	

MAIL DATE	DELIVERY MODE
02/16/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/821,099
Filing Date: April 07, 2004
Appellant(s): ENDLER ET AL.

Thomas F. Lebens
Reg. No. 38,221
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11 January 2010 appealing from the Office action mailed 27 April 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0050982	Chang	3-2003
2003/0184653	Ohkubo	10-2003

(9) Grounds of Rejection

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In page 8, lines 19-23 of the specification Appellant has provided evidence that Appellant intends the system to be made entirely of software. Software is not one of the four categories of invention and therefore this claim is not statutory. Software is not a series of steps or acts and thus is not a process. Software is not a physical article or object and as such is not a machine or manufacture. Software is not a combination of substances and therefor not a composition of matter.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Chang (U.S. patent No. 2003/0050982 A1).

As to claim 26, Chang teaches a method comprising:

receiving an event profile comprising at least one attribute relating to an event (see paragraph 0011 and 0015-16);

receiving content and corresponding content description information comprising at least one attribute related to the content (see paragraph 0014); and

associating the content with the event when the at least one attribute related to the event matches the at least one attribute related to the content, wherein the attribute is not a time or a date (see paragraph 0012 and 0015, where "at least one" of the attributes is not related to the time or date).

As to claim 27, Chang teaches wherein the event comprises multiple participants and the content having been received is transmitted by one of the multiple participants (see paragraph 0023).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-14, 20-25, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang (U.S. patent No. 2003/0050982 A1) in view of Ohkubo (U.S. patent No. 2003/0184653 A1).

As to claim 1, Chang teaches a method comprising:

detecting an event (see paragraph 0011, 0014, 0015, and 0017);

searching for an event profile corresponding to the event (see paragraph 0011, 0014, 0015, and 0017, this step is implicit from the);

detecting content transmitted by a participant of the event and description information corresponding to the content (see paragraph 0014); and

associating the content with the event based on the description information and the event profile (see paragraph 0012, 0015, and 0016).

Chang does not distinctly disclose wherein the searching is done without using a time or date.

Ohkubo teaches this, see paragraph 0023 and 0096-0101. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Chang to include the teachings of Ohkubo because these teachings would allow the system to infer event date and time information without the date and time being a part of the original event profile.

As to claim 2, Chang as modified, teaches further comprising matching the description information with the event profile (see Chang, paragraph 0014-0015).

As to claim 3, Chang as modified above, still does not distinctly disclose wherein the event profile includes an event location.

Ohkubo teaches this, see paragraphs 0013-0014. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Chang to include the teachings of Ohkubo because these teachings would allow the images to be identified based on image information.

As to claim 4, Chang as modified, teaches wherein the event profile includes an event time (see Chang, paragraph 0014-0015).

As to claim 5, Chang as modified, teaches wherein the event profile includes an event duration (see Chang, paragraph 0014-0015).

As to claim 6, Chang as modified, teaches wherein the event profile includes a listing of event participants (see Chang, paragraph 0023).

As to claim 7, Chang as modified above, still does not distinctly disclose wherein the description information includes a capture location.

Ohkubo teaches this, see paragraphs 0013-0014. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Chang to include the teachings of Ohkubo because these teachings would allow the images to be identified based on image information.

As to claim 8, Chang as modified, teaches wherein the description information includes a time (see Chang, paragraph 0014-0015).

As to claim 9, Chang as modified, teaches wherein the description information includes an author (see Chang, paragraph 0014-0015).

As to claim 10, Chang as modified, teaches wherein the content is a digital image (see Chang, paragraph 0011).

As to claim 11, Chang as modified, teaches wherein the content is one of a video media, an audio media, a textual media, and a graphical media (see Chang, paragraph 0011).

As to claim 12, Chang as modified, teaches further comprising storing the event profile (see Chang, paragraphs 0016-0017).

As to claim 13, Chang as modified, teaches further comprising storing the description information with the content (see Chang, paragraph 0016).

As to claim 14, Chang teaches a system comprising:

means for detecting an event (see paragraph 0011, 0014, 0015, and 0017);

means for searching for an event profile corresponding to the event (see paragraph 0014 and 0016, where both the user identifier and the time stamp are used in finding the event profile);

means for detecting content relating to the event and transmitted by a participant of the event and description information corresponding to the content (see paragraph 0014); and

means for associating the content with the event based on the description information and the event profile (see paragraph 0012 and 0015).

Chang does not distinctly disclose wherein the means for searching is adapted to search without using a time or a date.

Ohkubo teaches this, see paragraph 0023 and 0096-0101. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Chang to include the teachings of Ohkubo because these teachings would allow the system to infer event date and time information without the date and time being a part of the original event profile.

As to claim 20, Chang teaches a system, comprising:

an interface module to receive content and description information corresponding to the content, wherein the content is relating to an event is captured and transmitted by a participant of the event (see paragraph 0014);

a storage module to store a record containing an event profile describing an event (see paragraph 0011 and 0015-16); and

a content categorization module for matching without using a time or date, the content with the event and the description information (see paragraph 0012 and 0015, "for matching without using a time or date is a statement of intended use and therefore does not hold patentable weight, see MPEP 2106 II. C.).

In the alternative Chang does not distinctly disclose matching without using a time or a date, the content with the event and the description information.

Ohkubo teaches this, see paragraph 0023 and 0096-0101. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Chang to include the teachings of Ohkubo because these teachings would allow the system to infer event date and time information without the date and time being a part of the original event profile.

As to claim 21, Chang as modified, teaches further comprising an event detection module to detect the event (see Chang, paragraph 0011 and 0015).

As to claim 22, Chang as modified, teaches wherein the storage module stores the description information and the content (see Chang, paragraph 0016).

As to claim 23, Chang as modified, teaches further comprising an access control module to selectively allow a user to view the content (see Chang, paragraph 0016).

As to claim 24, Chang as modified, teaches wherein the access control module allows the user to view the content when the user is a participant listed in the event profile associated with the event (see Chang, paragraph 0023).

As to claim 25, Chang teaches a computer-readable medium having computer executable instructions for performing a method comprising:

detecting an event comprising a plurality of participants and storing an event profile (see paragraph 0011 and 0015-16);

receiving content without a time or a date relating to the event from one of the plurality of participants (see paragraph 0014);

receiving a request to access content from a user (see paragraph 0016);

searching for an event profile corresponding to the content (see 0023);

matching the content with the event profile (see paragraph 0014-15); and

displaying the content based on the user and the event profile (see paragraph 0016 and 0023).

Chang does not teach receiving content without a date or a time relating to the event from one of the plurality of participants.

Ohkubo teaches this, see paragraph 0023 and 0096-0101. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Chang to include the teachings of Ohkubo because these teachings would allow the

system to infer event date and time information without the date and time being a part of the original event profile.

As to claim 28, Chang as modified, teaches further comprising:

displaying the content when requested by a participant of the event, wherein the at least one non-temporal attribute related to the event is a list of participants of the event (see Chang, paragraph 0016 and 0022).

As to claim 29, Chang as modified, teaches further comprising:

associating the content with the event when the at least one attribute related to the content and the at least one attribute related to the event match by one of:

an author of the content and a participant of the event (see Chang, paragraph 0014); and

a location of the capturing of the content and a location of the event;

wherein the at least one attribute related to the event comprises at least one of the event location, the event time and date, the event duration and the participant and wherein the at least one attribute related to the content comprises at least one of the author of the content, the time and date of the capturing of the content and the location of the capturing of the content (see Chang, paragraphs 0014-0015).

(10) Response to Argument

Issue 1: Patentability of claim 14 in view of 35 U.S.C. §101.

Appellant argues that the claimed "means for storing the content and the event" when viewed in light of the specification must include "a tangible storage element which is capable of

storing data which can later be retrieved by the access control module", the arguments have been considered, but are not deemed persuasive.

It is first noted that the rejection based on 35 U.S.C. §101 is proper when there exists an embodiment that involves only software devices. While in one embodiment the storage module might include a physical storage device, Appellant's specification describes at least one embodiment where this is not the case. For instance "instructions for a customized application for capturing and storing content related to an event" is purely software. See Specification page 8, lines 19-23. In this case the module would only include software.

Further, Appellant points to the specification on page 13, lines 2-3, which states, "In another embodiment, the access control module 360 selective allows an electronic device to access the content stored within the storage module 330." The phrase "in another embodiment", suggests that there are embodiments were the content is not stored within the storage module. Also, contrary to what Appellant states, content can be stored in a software storage module, if it is stored within the organization of that software module. Much the same as "information [can be] contained *within* the record associated with an event." See Specification, page 11, lines 5-7. Or still further, data can be contained within a software program such as database management system. Therefore, in at least one embodiment, the claimed means for storing the content and event", can be software according to Appellant's specification.

For the above reason's, the rejection under 35 U.S.C. 101 are proper and should be upheld.

Issue 2: Patentability of claims 26-27 in view of 35 U.S.C. §102(b) and the Chang reference.

Appellant argues that the Chang reference does not disclose the limitation "at least one attribute related to the event matches at least one attribute related to the content, wherein the attribute is not a time or date." Examiner has pointed out that Chang teaches using at least two different attributes when matching an event to content. As indicated the attributes are the identifier of the user and the time stamp information of the content. This identifier is used to select the user's calendar, and then the time stamp is used to determine what even was occurring when the content was created. See paragraph 0014.

Appellant's claims sates that "the attribute is not a time or a date" meaning one attribute of the "at least one attribute", i.e., one or more attributes, is not a date or a time. In this case, the user identifier is an attribute that is used in the matching that is not "a date or a time". As stated in paragraph 0014,"time stamp information is sent 204 to a calendar system *along with at least an identifier of the user* of the recording device." See paragraph 0014. The user identifier is used to access the user's calendar so that the time stamp information can be used to determine what particular event a user was at when the recording was taken. See paragraph 0015. Therefore, first the user identifier is used in the matching, and only after the identifier is matched is the time stamp used to match a time to the user's calendar.

Applicant states, "the 'identifier of the user of the recording device' which is sent to the calendar along with the time stamp information, is not an attribute relating to the event. Instead, this information is relating to the calendar." It is put forth that a user is necessarily related to every event on their calendar, that relation being it is an event on their calendar. This particular relation becomes important when user A is attending event X which is on user A's calendar, and user B is also planning on attending a different event, Y, at the same time as user A. If the

relation of user A to the events on user A's calendar does not exist, the system will not know whether to label a recording from event X as "event X" or to label it as "event Y". Therefore, the user identifier is an attribute relating to the event that is on the user's calendar. Further, as indicated in paragraph 0022, a list of all of the attendees of an event is included as part of the event on the user's calendar. Therefore, the event is also related to the users that attended the event in that way.

Applicant states, "there are still several events which are stored within the database (see Chan, para. 0072), and the associating the content with the event is done using the time/date of photography." The examiner does not argue that the time/date of photography are used when doing the matching in Chang. However, as previously stated, this is one attribute that is used along with "at least the user identifier" to match recording to the event. See paragraphs 0014, 0015, and 0022. The user identifier is "the attribute" that is required to perform the matching, and the user identifier is "the attribute" that is not a time and is not a date.

For these reasons, the rejection under 35 U.S.C. 102(b) are proper and should be upheld.

Issue 3: Patentability of claims 1-14, 20-25, 28 and 29 in view of 35 U.S.C. §103(a) and the Chang and Ohkubo references.

Claim 1

Appellant argues that the combination of references does not teach "search for an event profile corresponding to the event wherein the searching is done without using a time or a date," the arguments have been considered, but are not deemed persuasive.

Contrary to Appellant's contentions, Ohkubo teaches this. In paragraph 0091, it is stated "the calendar information C0 corresponding to the country or region of photography is obtained based on the photography location information described in the tag information T0. While the information from the calendar would necessarily include time and date, the searching is done "based on the photography location information" which is without "using a time or date". See also paragraph 0093, "The image classification means 43 reads the calendar information C0 of the country or region corresponding to the photography location from the information database 22, based on the photography location information described in the tag information." This embodiment where location information is used is an alternative to the first embodiment where date and time are used. So clearly in this second embodiment described in paragraphs 0089-0095, time and date information is not used as required by the claims.

While examiner concedes that the previous interpretation of "without using a time or date" was incorrect, this interpretation was based at least partially on Appellant's specification. For the limitation wherein the searching is done without using a time or date, Appellant cites the abstract, figure 5, and page 14, lines 5-9. The abstract does not mention time or date much less give alternative embodiments where the time and date are not used. Figure 5 specifically mentions in step 550, "Detect Capture Time of Content." Lines 5-9 state: "In Block 520, information related to the event (event profile) is searched. In one embodiment, the even profile is stored within the storage module 330. In one embodiment, the event profile includes the event location, event time/date, event duration, and event participants. An exemplary event profile is shown in Figure 4A." Nothing in this section of the specification, nor any other section, would

give support for "searching for an event profile corresponding to the event wherein the searching is done without using" a time and without using a date. Therefore, the examiner's interpretation was based at least partially on what was being disclosed in the specification which does not support the limitation of without a date and without a time.

However, even without giving the claims the interpretation previously argued, as stated above, paragraphs 0089-0095 disclose a matching of content to an event without using date and time information.

In response to Appellant's arguments directed towards the Shiota and Van De Sluis et al. publications, the arguments have been considered, but these references are not used in any rejections, and therefore Appellant's arguments are moot.

Claim 14

In response to Appellant's arguments directed towards claim 14 with regards to the limitation "without using a time or date", the arguments with regards to the Ohkubo reference have been addressed above. As stated above, it is clear that matching calendar information (event information) based on the photography location information is doing so "without a time or date". See paragraph 0091. See also, paragraphs 0089-0095.

While examiner concedes that the previous interpretation of "without using a time or date" was incorrect, this interpretation was based at least partially on Appellant's specification. To further illustrate that Appellant's specification also fails to give support for a "means for

searching for an event profile corresponding to the event wherein the searching is done without a date or time," we look at the summary of claimed subject matter for claim 14. Applicant states that Figure 3, element 310; page 8, line 23 through page 9, line 23; and page 10, lines 1-5 give support. Figure 3, element 310 is for an "Event Detection Module" which does not show any searching nor does it suggest not using a time and not using a date for that searching. Page 8, line 19 through Page 9, line 16 states:

> Figure 3 illustrates one embodiment of a system 300. In one embodiment, the system 300 is embodied within the server 130. In another embodiment, the system 300 is embodied within the electronic device 110. In yet another embodiment, the system 300 is embodied within both the electronic device 110 and the server 130.
>
> In one embodiment, the system 300 includes an event detection module 310, a content categorization detection module 320, a storage module 330, an interface module 340, a control module 350, and an access control module 360.
>
> In one embodiment, the control module 350 communicates with the event detection module 310, the content categorization detection module 320, a storage module 330, the interface module 340, and the access control module 360. In one embodiment, the control module 350 coordinates tasks, requests, and communications between the event detection module 310, the content categorization detection module 320, a storage module 330, the interface module 340, and the access control module 360.
>
> In one embodiment, the event detection module 310 detects an event that is scheduled. *In one embodiment, the event is a meeting among more than one user at an event location, at an event time, for an event duration, and with event participants*. In one example of an event, the event location is at Joe's Java at an event time of *10:00 PM on September 12, 2004 for the event duration of 2 hours* with specific event participants.

(emphasis added). While Appellant states in this section that in one embodiment the event is a meeting having a time and duration, Appellant does not give alternative embodiments

that do not include a time and do not include a date. Therefore, this section does not give support for the limitation "without using a time or date". Next, we look at page 10, lines 1-5, "In one embodiment, by identifying the event, the device detection module 310 utilizes additional information associated with the particular event. Additional information corresponding with the particular event is shown in an exemplary record illustrated in Figure 4A. In one embodiment, this additional information is utilized by the system 300." Here, Additional information, including that disclosed in figure 4A is used by the system. This information includes "Event Time/Date", see reference number 4A. Again, Appellant has failed to point to an embodiment in the specification where neither a time nor a date is used. Therefore, the examiner's interpretation was based at least partially on what was being disclosed in the specification which does not support the limitation of without a date and without a time.

However, even without giving the claims the interpretation previously argued, as stated above, paragraphs 0089-0095 disclose a matching of content to an event without using date and time information.

In response to Appellant's arguments directed towards the Shiota and Van De Sluis et al. publications, the arguments have been considered, but these references are not used in any rejections, and therefore Appellant's arguments are moot.

Claim 20

Applicant argues that "for matching without using a time or date ..." is not intended use as described in MPEP 2106 II.C, but rather "provides a limtiation to the content categorization

module, by requiring that the content categorization module is adapted to match the content with the event information without using a time or a date." Appellant appears to be attaches the same meaning to the words "adapted to" as to the word "for". It is first noted that that "adapted to" clauses are given as an example of language that may raise a question as to the limiting effect of the language in a claim. See MPEP §2106 II.C. Next it is noted that it is different to claim a content categorization module --means-- for performing an action, which would invoke a 35 U.S.C. §112 sixth paragraph interpretation, or to claim a content categorization module configured to perform an action, which would imply that the module has been configured to perform those actions. Having "a content categorization module for" performing an action would imply that the intended use of that module is to perform the action, but does not imply that the module actually includes all the code necessary to perform that action. That is, the module may be intended by the programmer to perform the action, but because of a coding error doesn't. Therefore, Appellant's arguments with respect to intended use are not deemed persuasive.

However, even without giving the claims the interpretation previously argued, as stated above, paragraphs 0089-0095 disclose a matching of content to an event without using date and time information.

In response to Appellant's arguments directed towards claim 20 with regards to the limitation "without using a time or date", the arguments with regards to the Ohkubo reference have been addressed above. As stated above, it is clear that matching calendar information (event information) based on the photography location information is doing so "without a time or date". See paragraph 0091. See also, paragraphs 0089-0095.

While examiner concedes that the previous interpretation of "without using a time or date" was incorrect, this interpretation was based at least partially on Appellant's specification. To further illustrate that Appellant's specification also fails to give support for a " a content categorization module for matching without using a time or date, the content with the event and the description information" we look at the summary of claimed subject matter for claim 20. Applicant states that the Abstract, Figure 3; page 9, lines 1-10; and page 10, line 6 through page 11, line 3 disclose this limitation. As indicated before, the abstract does not mention date and time and does not mention embodiments that are "without a date and a time". Figure 3 illustrates several modules including the "Event Detection Module" discussed above, but none of the modules would show Appellant conceived of an embodiment where the "date and time" where not used in the content categorization. Page 9, lines 1-10 states

> In one embodiment, the system 300 includes an event detection module 310, a content categorization detection module 320, a storage module 330, an interface module 340, a control module 350, and an access control module 360.
>
> In one embodiment, the control module 350 communicates with the event detection module 310, the content categorization detection module 320, a storage module 330, the interface module 340, and the access control module 360. In one embodiment, the control module 350 coordinates tasks, requests, and communications between the event detection module 310, the content categorization detection module 320, a storage module 330, the interface module 340, and the access control module 360.

Nothing in this section mentions using time or date or alternative embodiments. Next we look to page 10, line 6 through page 11, line 3, which states

> In one embodiment, the content categorization module 320 determines which event the content should be categorized with. In one embodiment, the content categorization module 320 detects the content and description information related to the content. In one embodiment, the content is a photograph. In another embodiment, the content is video content, audio content, a document, a graphic, and the like. An exemplary embodiment of content information 480 and description information 490 is shown in Figure 4B.
>
> In one embodiment, the description *information describes the particular content such as the date/time the content was captured, location where the content was captured, the unique device that captured the content, and the logged in participant who captured the content.* In one embodiment, *the date/time is recorded by a time stamp when the content is recorded by a device*. For example, *a time stamp function within a digital camera* is capable of capturing the *time and date* when capturing an electronic image. In one embodiment, *the location* where the content is captured *is also detected* and recorded by the device. For example, a digital camera with a location detection component such as a global positioning system (GPS) is capable of detecting the location of the digital camera when capturing an electronic image. In one embodiment, *the identity of the device is recorded* when capturing content. For example, each device has a unique serial number that identifies the particular device and is recorded when capturing the electronic image.

(emphasis added). In this section Appellant indicates that the date/time is recorded in one embodiment. The specification goes on to state that there is another embodiment where "the location where the content is captures *is also captured*" (emphasis added). This is in addition to the embodiment where the time/date is captured. Further it goes on to indicate that the identity of the device can also be recorded when capturing. However, the specification does not show an embodiment where the categorization module matches using the identity of the device without the date and without the time. It also does not show one using just the location information and not the date and not the time. Further, unlike with the photograph being indicated as a type of

content in the first paragraph, and then alternative content types being listed, the specification never lists embodiments as being an alternative to using date/time. Therefore, the examiner's interpretation was based at least partially on what was being disclosed in the specification which does not support the limitation of without a date and without a time.

However, even without giving the claims the interpretation previously argued, as stated above, paragraphs 0089-0095 disclose a matching of content to an event without using date and time information.

In response to Appellant's arguments directed towards the Shiota and Van De Sluis et al. publications, the arguments have been considered, but these references are not used in any rejections, and therefore Appellant's arguments are moot.

Claim 25

In response to Appellant's arguments directed towards claim 25 with regards to the limitation "without using a time or a date", the arguments with regards to the Ohkubo reference have been addressed above. As stated above, it is clear that matching calendar information (event information) based on the photography location information is doing so "without a time or date". See paragraph 0091. See also, paragraphs 0089-0095.

While examiner concedes that the previous interpretation of "without using a time or date" was incorrect, this interpretation was based at least partially on Appellant's specification. To further illustrate that Appellant's specification also fails to give support for a "receiving

content without a time or a date relating to the event from one of the plurality of participants" we look at the summary of claimed subject matter for claim 25. Applicant states that Figures 7 and 8; page 17, lines 9-11; and page 18, lines 5-13 disclose this limitation. Figures 7 and 8 do not disclose receiving content with or without a corresponding date and time. Page 17, lines 9-11 state, "In Block 710, a particular event is selected by a user. In one embodiment a plurality of events is [sic] stored within the storage module 330. Further, each event is represented by an event profile and is stored as a record." These lines describe an event being selected by a user. No content is received. Page 18, lines 5-13 state,

> In Block 810, a particular content is selected by a user. In one embodiment, the content includes audio, video, still images, graphics, text, and the like.
>
> In Block 820, an event that is associated with the particular content is identified. In one embodiment, the particular content is associated with one of a plurality of events that is stored within the storage module 330. Further, each event is represented by an event profile and stored as a record.
>
> In Block 830, the event profile associated with the selected event is searched.

These lines include description of selection of content, but do not include description of receipt of content. Further no parts of the sections claimed by Appellant ever involve "receiving content without a time or date relating to the event." The even profile shown in figure 4A expressly includes "Event Time/Date", reference number 420. Therefore, the examiner's interpretation was based at least partially on what was being disclosed in the specification which does not support the limitation of without a date and without a time.

However, even without giving the claims the interpretation previously argued, as stated above, paragraphs 0089-0095 disclose a matching of content to an event without using date and time information.

In response to Appellant's arguments directed towards the Shiota and Van De Sluis et al. publications, the arguments have been considered, but these references are not used in any rejections, and therefore Appellant's arguments are moot.

Claims 2-13, 21-24 and 28-29

No independent arguments are made by Appellant in this section.

For all of the reasons discussed in this section, the rejection under 35 U.S.C. 103(a) are proper and should be upheld.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jacob F. Bétit/

Examiner, 2169

Conferees:

Tony Mahmoudi, Supervisory Examiner 2100

/Tony Mahmoudi/

Supervisory Patent Examiner, Art Unit 2169

James Trujillo, Supervisory Examiner 2100

/James Trujillo/

Supervisory Patent Examiner, Art Unit 2159

In a conference on 8 December 2009, it was agreed that this case should be sent to the Board of Patent Appeals and Interferences.